

1 HONORABLE JUDGE KYMBERLY EVANSON  
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7 UNITED STATES DISTRCIT COURT  
8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 ASHLEY S. FAWCETT, individually,

10 Plaintiff,

11 v.

12 THE STANDARD FIRE INSURANCE  
13 COMPANY d/b/a TRAVELERS  
14 INSURANCE,

Defendant.

NO. 2:23-cv-00248-KKE

STIPULATED PROTECTIVE  
15 ORDER

16 1. **PURPOSES AND LIMITATIONS**

17 1.1 Discovery in this action is likely to involve production of confidential,  
18 proprietary, or private information for which special protection may be warranted.  
19 Accordingly, Plaintiff Ashley S. Fawcett and Defendant The Standard Fire Insurance Company  
20 (Travelers), (collectively “the parties”) hereby stipulate to and petition the court to enter the  
21 following Stipulated Protective Order. The parties acknowledge that this agreement is  
22 consistent with Local Civil Rule 26(c). It does not confer blanket protection on all disclosures  
23 or responses to discovery; the protection it affords from public disclosure and use extends only  
24 to the limited information or items that are entitled to confidential treatment under the  
applicable legal principles, and it does not presumptively entitle the parties to file confidential

1 information under seal.

2                   **2.        “CONFIDENTIAL” MATERIAL**

3           2.1     “Confidential” material shall collectively refer to Travelers’ claim handling  
4 manuals for handling of UM/UIM matters, including but not limited to, Travelers’ Auto  
5 Knowledge Guide(s).

6           2.2     Except as set forth below in this Paragraph 2.2, all Parties agree that to the  
7 extent that they withhold from production any otherwise responsive documents as  
8 “Confidential” as otherwise protected under the applicable rules, they will identify such  
9 documents on a privilege log with sufficient specificity for the other Party to determine the  
10 claimed protection and the nature of the documents withheld. Thereafter, and to the extent that  
11 any Party contests the withholding of a document listed on a privilege log, and after good faith  
12 conferral of the Parties in an attempt to resolve the dispute, the withholding Party agrees to  
13 submit the documents in question to the Court for an in-camera review to determine whether  
14 they were properly withheld under the terms and conditions of this Stipulated Protective Order.

15                  **3.        SCOPE**

16           3.1     The protections conferred by this agreement cover not only confidential  
17 material (as defined above), but also (1) any information copied or extracted from confidential  
18 material; (2) all copies, excerpts, summaries, or compilations of confidential material; and (3)  
19 any testimony, conversations, or presentations by parties or their counsel that might reveal  
20 confidential material. However, the protections conferred by this agreement do not cover  
21 information that is in the public domain or becomes part of the public domain through trial or  
22 otherwise.

23                  **4.        ACCESS TO AND USE OF CONFIDENTIAL MATERIAL**

1       4.1     Basic Principles. A receiving party may use confidential material that is  
2 disclosed or produced by another party or by a non-party in connection with this case only for  
3 prosecuting, defending, or attempting to settle this litigation. Confidential material may be  
4 disclosed only to the categories of persons and under the conditions described in this  
5 agreement. Confidential material must be stored and maintained by the receiving party at a  
6 location and in a secure manner that ensures that access is limited to the persons authorized  
7 under this agreement.

8       4.2     Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
9 ordered by the court or permitted in writing by the designating party, and subject to subsection  
10 4.3 below, a receiving party may disclose any confidential material only to:

11              (a)     the receiving party’s counsel of record in this action, as well as  
12 employees of counsel to whom it is reasonably necessary to disclose the information for this  
13 litigation;

14              (b)     the officers, directors, and employees (including in house counsel) of  
15 the receiving party to whom disclosure is reasonably necessary for this litigation, unless the  
16 parties agree that a particular document or material produced is for Attorney’s Eyes Only and  
17 is so designated;

18              (c)     experts and consultants to whom disclosure is reasonably necessary for  
19 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”  
20 (Exhibit A);

21              (d)     the court, court personnel, and court reporters and their staff;

22              (e)     copy or imaging services retained by counsel to assist in the duplication  
23 of confidential material, provided that counsel for the party retaining the copy or imaging

1 service instructs the service not to disclose any confidential material to third parties and to  
2 immediately return all originals and copies of any confidential material;

3 (f) during their depositions, witnesses in the action to whom disclosure is  
4 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be  
5 Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered by the court.  
6 Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential  
7 material must be separately bound by the court reporter and may not be disclosed to anyone  
8 except as permitted under this agreement; and

9 (g) the author or recipient of a document containing the information or a  
10 custodian or other person who otherwise possessed or knew the information.

11       4.3     Non-Disclosure of "CONFIDENTIAL" Information or Items.

12 (a) All parties hereto shall not disclose to nonparties any material produced in the  
13 captioned litigation to the extent it is subject to an order of confidentiality by the court  
14 overseeing this captioned litigation; and

15 (b) All parties hereto shall not disclose to nonparties Travelers' claim handling manuals  
16 for handling of UM/UIM matters.

17       4.4     Filing Confidential Material. Before filing confidential material or discussing  
18 or referencing such material in court filings, the filing party shall confer with the designating  
19 party to determine whether the designating party will remove the confidential designation,  
20 whether the document can be redacted, or whether a motion to seal or stipulation and proposed  
order is warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and  
22 the standards that will be applied when a party seeks permission from the court to file material  
23 under seal.

1                   **5. DESIGNATING PROTECTED MATERIAL**

2         5.1     Exercise of Restraint and Care in Designating Material for Protection. Each  
 3 party or non-party that designates information or items for protection under this agreement  
 4 must limit any such designation to specific material that qualifies under the appropriate  
 5 standards. The designating party must designate for protection only those parts of material,  
 6 documents, items, or oral or written communications that qualify, so that other portions of the  
 7 material, documents, items, or communications for which protection is not warranted are not  
 8 swept unjustifiably within the ambit of this agreement.

9                   Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
 10 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
 11 unnecessarily encumber or delay the case development process or to impose unnecessary  
 12 expenses and burdens on other parties) expose the designating party to sanctions.

13                  If it comes to a designating party's attention that information or items that it designated  
 14 for protection do not qualify for protection, the designating party must promptly notify all other  
 15 parties that it is withdrawing the mistaken designation.

16         5.2     Manner and Timing of Designations. Except as otherwise provided in this  
 17 agreement (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or  
 18 ordered, disclosure or discovery material that qualifies for protection under this agreement  
 19 must be clearly so designated before or when the material is disclosed or produced.

20                (a)     Information in documentary form: (e.g., paper or electronic documents and  
 21 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial  
 22 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that  
 23 contains confidential material. If only a portion or portions of the material on a page qualifies

1 for protection, the producing party also must clearly identify the protected portion(s) (e.g., by  
 2 making appropriate markings in the margins).

3           (b) Testimony given in deposition or in other pretrial proceedings: the parties and  
 4 any participating non-parties must identify on the record, during the deposition or other pretrial  
 5 proceeding, all protected testimony, without prejudice to their right to so designate other  
 6 testimony after reviewing the transcript. Any party or non-party may, within fifteen days after  
 7 receiving the transcript of the deposition or other pretrial proceeding, designate portions of the  
 8 transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect  
 9 confidential information at trial, the issue should be addressed during the pre-trial conference.

10           (c) Other tangible items: the producing party must affix in a prominent place on  
 11 the exterior of the container or containers in which the information or item is stored the word  
 12 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant  
 13 protection, the producing party, to the extent practicable, shall identify the protected portion(s).

14           5.3     Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
 15 designate qualified information or items does not, standing alone, waive the designating party’s  
 16 right to secure protection under this agreement for such material. Upon timely correction of a  
 17 designation, the receiving party must make reasonable efforts to ensure that the material is  
 18 treated in accordance with the provisions of this agreement.

19           **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

20           6.1     Timing of Challenges. Any party or non-party may challenge a designation of  
 21 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality  
 22 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
 23 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to  
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1 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
2 original designation is disclosed.

3       6.2     Meet and Confer. The parties must make every attempt to resolve any dispute  
4 regarding confidential designations without court involvement. Any motion regarding  
5 confidential designations or for a protective order must include a certification, in the motion  
6 or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer  
7 conference with other affected parties in an effort to resolve the dispute without court action.  
8 The certification must list the date, manner, and participants to the conference. A good faith  
9 effort to confer requires a face-to-face meeting or a telephone conference.

10       6.3     Judicial Intervention. If the parties cannot resolve a challenge without court  
11 intervention, the designating party may file and serve a motion to retain confidentiality under  
12 Local Civil Rule 7. The burden of persuasion shall be on the designating party. Frivolous  
13 challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary  
14 expenses and burdens on other parties) may expose the challenging party to sanctions. All  
15 parties shall continue to maintain the material in question as confidential until the court rules  
16 on the challenge.

17       **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**  
18                   **OTHER LITIGATION**

19       7.1     If a party is served with a subpoena or a court order issued in other litigation  
20 that compels disclosure of any information or items designated in this action as  
21 “CONFIDENTIAL,” that party must:

22           (a)     promptly notify the designating party in writing and include a copy of the  
23 subpoena or court order;

24           (b)     promptly notify in writing the party who caused the subpoena or order to issue

1 in the other litigation that some or all of the material covered by the subpoena or order is subject  
2 to this agreement. Such notification shall include a copy of this Agreement; and

3                   (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
4 designating party whose confidential material may be affected.

5                   **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

6                   8.1       If a receiving party learns that, by inadvertence or otherwise, it has disclosed  
7 confidential material to any person or in any circumstance not authorized under this agreement,  
8 the receiving party must immediately (a) notify in writing the designating party of the  
9 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
10 protected material, (c) inform the person or persons to whom unauthorized disclosures were  
11 made of all the terms of this agreement, and (d) request that such person or persons execute  
12 the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

13                   **9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
14                   PROTECTED MATERIAL**

15                   9.1       When a producing party gives notice to receiving parties that certain  
16 inadvertently produced material is subject to a claim of privilege or other protection, the  
17 obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure  
18 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established  
19 in an e-discovery order or agreement that provides for production without prior privilege  
20 review. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set  
21 forth herein.

22                   **10. NON-TERMINATION AND RETURN OF DOCUMENTS**

23                   10.1      Within 60 days after the final disposition of this action, including all appeals,  
24 each receiving party must return all confidential material to the producing party, including all

1 copies, extracts, and summaries thereof. Alternatively, the parties may agree upon appropriate  
2 methods of destruction.

3       10.2 After the final disposition of this action, due to regulatory requirements or other  
4 applicable law, if the receiving party is unable to alter or delete electronically stored  
5 information, delete materials from the claims file, and/or alter the contents of the claims file,  
6 the parties may agree upon additional methods of protecting the confidential nature of items  
7 designated as “CONFIDENTIAL.”

8       10.3 Notwithstanding this provision, counsel is entitled to retain one archival copy  
9 of all documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
10 deposition and trial exhibits, expert reports, attorney work product and consultant expert work  
11 product, even if such materials contain confidential material.

12       10.4 The confidentiality obligations imposed by this agreement shall remain in effect  
13 until a designating party agrees otherwise in writing or a court order otherwise.

14           IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD

15           DATED this 19<sup>th</sup> day of September, 2023.

16           LEATHER LAW GROUP

17  
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*Counsel for Plaintiff Ashley S. Fawcett*

1 The parties' stipulated motion for a protective order (Dkt. No. 16) is GRANTED.

2 DATED: September 29, 2023.

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5 Kymberly K. Evanson  
6 United States District Judge  
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STIPULATED PROTECTIVE ORDER - 11

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name], of  
4 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the  
5 Stipulated Protective Order that was issued by United States District Court on  
6 \_\_\_\_\_ [date] in the case entitled *Ashley S. Fawcett v. The Standard Fire*  
7 *Insurance Company d/b/a Travelers Insurance*, United States District Court Western District  
8 of Washington at Seattle Cause Number 2:23-cv-00248-JCC. I agree to comply with and to  
9 be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge  
10 that failure to comply could expose me to sanctions and punishment in the nature of contempt.  
11 I solemnly promise that I will not disclose in any manner any information or item that is subject  
12 to this Stipulated Protective Order to any person or entity except in strict compliance with the  
13 provisions of this Order.

14  
15 I further agree to submit to the jurisdiction of the United States District Court Western  
16 District of Washington for the purpose of enforcing the terms of this Stipulated Protective  
17 Order, even if such enforcement proceedings occur after termination of this action.

18  
19 Date: \_\_\_\_\_

20 City and State where sworn and signed: \_\_\_\_\_

21 Printed name: \_\_\_\_\_

22 Signature: \_\_\_\_\_

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the following party(ies):

Benjamin T. Zielinski, WSBA #43670  
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*Attorneys for Plaintiff*

**By:**  **First Class Mail**  **Email**  **Legal Messenger**

DATED this 19<sup>th</sup> day of September 2023 at Seattle, Washington.

s/ Nico Schulz  
Nico Schulz | Paralegal